

Remarks/Arguments

Claims 1-8 remain pending in the application.

Claims 1-8 were rejected under 35 U.S.C. §103 as being unpatentable over Weichart et al. (US 2003/0075522) in view of Francis (US 6465353) and Weichart (US2006/0108231).

While Applicants make no acquiescence to the reasoning underlying the rejection under 35 U.S.C. §103, Applicants respectfully traverse the rejection on the grounds that Weichart (US2006/0108231) does not qualify as prior art against the present claims.

Weichart (US2006/0108231) is a U.S. patent publication of a National Stage entry of International Application No. PCT/CH04/00010. Attached is the WIPO publication of the International Application, namely, WO 2004/064122 A1.

The WO 2004/064122 A1 publication was published in the German language, and for this reason, Weichart (US2006/0108231) does not have a “§102(e) date”. This outcome is not changed by the fact that Weichart (US2006/0108231) appears to make a claim of priority to U.S. provisional application no. 60/439,745.

The Examiner's attention is directed to the attached flowchart which was extracted from M.P.E.P. §706.02(f)(1). Referring to the flowchart, Weichart (US2006/0108231) is a National Stage entry of an International Application filed after November 29, 2000, and the WIPO publication (WO 2004/064122 A1) of the same was not in the English language. Therefore, Weichart (US2006/0108231) has no §102(e) date. Rather, Weichart (US2006/0108231) is prior art as of its publication date of May 25, 2006, which is well after the filing date of the present application.

At least for the reason that Weichart (US2006/0108231) does not qualify as prior art against claims 1-8, Applicants respectfully request that the rejection under 35 U.S.C. ¶103 be withdrawn.

No other issues remaining, reconsideration and favorable action upon the claims 1-8 now present in the application are respectfully requested.

Respectfully submitted,
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